



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. **19-89**

RESOLUTION

RESOLUTION GRANTING APPROVAL OF A PRIVATE AGREEMENT BETWEEN THE CITY AND COUNTY OF HONOLULU DEPARTMENT OF PARKS AND RECREATION, DEPARTMENT OF BUDGET AND FISCAL SERVICES, AND THE ROTARY CLUB OF HONOLULU.

WHEREAS, the City and County of Honolulu ("City") Department of Parks and Recreation and Department of Budget and Fiscal Services entered into a private agreement with the Rotary Club of Honolulu ("Rotary"), a Hawaii nonprofit corporation, whose address is given as 705 Queen Street, Honolulu, HI 96813, dated July 13, 2016 ("Private Agreement"); and

WHEREAS, the purpose of this Private Agreement was to identify for development certain parcels of City-owned undeveloped land located in Waikiki, in the area bordered by Seaside Avenue, Royal Hawaiian Avenue, Aloha Drive, and Manukai Street, which is more particularly described as TMK Nos. 2-6-020-002, 003, 004, 005, 006, 056, 057, 062, and 065 ("Property"); and

WHEREAS, the parties to the Private Agreement desired that a public park (the "Park") be built on the Property to provide the people of Waikiki and Oahu an attractive and restful area in which to spend time; and

WHEREAS, as stated in the Private Agreement, a preliminary conceptual plan for the Park included a grassed area, trees, pedestal benches, an irrigation system, lighted walkways, wrought iron fencing on a short stone wall along the perimeter of the Park, an arched gateway on Aloha Drive, and gateways on Seaside Avenue and Royal Hawaiian Avenue (the "Park Improvements"); and

WHEREAS, pursuant to the Private Agreement, Rotary agreed that it "shall be solely responsible for all costs and expenses incurred in connection with any and all improvements constructed or installed on the Property, including, but not limited to, all design, planning, engineering, permitting, construction, alteration and applicable maintenance costs and expenses"; and

WHEREAS, Rotary is undertaking the project as a community service project for the benefit of the community surrounding the Park, and, will be donating funds, materials, and labor to the City for the construction of the Park as described in the Private Agreement; and

WHEREAS, ROTARY desires that the Park on the Property be named the "Centennial Park" on the occasion of Hawaii's Rotary turning 100 years old; and



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WHEREAS, pursuant to the Private Agreement, Rotary acknowledges that the Park Improvements constructed or provided by Rotary for the Park are subject to prior City Council approval and acceptance pursuant to Section 13-113 of the Revised Charter of the City and County of Honolulu ("RCH"); and

WHEREAS, the City and Rotary acknowledged in the Private Agreement that the naming of any City park property, including the Park, and the installation of any plaque in a public park requires prior City Council review and approval by resolution and the name proposed for the Park must meet the criteria set forth in Revised Ordinances of Honolulu 1990 (ROH) Sections 22-9.3 and 22-9.5; and

WHEREAS, Section 1-8.2, ROH, circa July 13, 2016, (this section has since been amended), required that, except for those exempted by other provisions of this section, "any agreement, or any amendments thereto, which place an obligation upon the city or any department or agency thereof shall require prior city council's consent and approval. The final or draft version of the agreement shall be provided to the council for its review prior to the council's approval. ... Council's consent and authorization shall be through adoption of an appropriate resolution"; and

WHEREAS, a copy of the Private Agreement incorporating the terms of the private agreement between Rotary and the City is attached hereto as Exhibit "A" and by reference is made a part of this resolution; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu, that this body grants approval of the agreement between the Department of Parks and Recreation, the Department of Budget and Fiscal Services, and the Rotary Club of Honolulu, dated July 13, 2016, to design and construct a public park in the area in Waikiki bordered by Seaside Avenue, Royal Hawaiian Avenue, Aloha Drive, and Manukai Street, which is more particularly described as TMK Nos. 2-6-020-002, 003, 004, 005, 006, 056, 057, 062, and 065; and



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BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Mayor, the Managing Director, the Director of Parks and Recreation, the Director of Budget and Fiscal Services, and Rotary Club of Honolulu 705 Queen Street, Honolulu, HI 96813.

INTRODUCED BY:

Hidi Tsunayoshi

DATE OF INTRODUCTION:

APR 10 2019

Honolulu, Hawaii

Councilmembers

EXHIBIT A

AGREEMENT

This AGREEMENT ("Agreement") is made this 13 day of JULY, 2016 by and between and ROTARY CLUB OF HONOLULU, a Hawaii non-profit corporation, whose address is 705 Queen Street, Honolulu, Hawaii 96813, ("ROTARY") and the CITY AND COUNTY OF HONOLULU, a municipal corporation of the State of Hawaii, whose address is 530 South King Street, Honolulu, Hawaii (the "CITY").

RECITALS

WHEREAS, the CITY owns and manages those certain parcels of undeveloped land located in the area bordered by Seaside Avenue, Royal Hawaiian Avenue, Aloha Drive, and Manuka Street, which is more particularly described as TMK Nos. 2-6-020-002, 003, 004, 005, 006, 056, 057, 062, and 065, (hereinafter referred to as the "Property"); and

WHEREAS, the CITY has owned the Property for more than ten (10) years and desires that a public park (the "Park") be built on the Property to provide the people of Waikiki and Oahu with an attractive and restful place to relax; and

WHEREAS, ROTARY desires to construct a public park ("Park") on the Property to be named the "Centennial Park" to provide the people of Waikiki with an attractive and restful place to relax on the occasion of Hawaii's Rotary turning 100 years old; and

WHEREAS, ROTARY is willing to assist the CITY in this endeavor on a volunteer basis as a part of its focus on community service projects by providing to the CITY funds, materials and labor for the construction of the Park; and

WHEREAS, the current preliminary conceptual plan for the Park includes a grassed area, trees, pedestal benches, an irrigation system, lighted walkways, wrought iron fencing on a short stone wall along the perimeter of the Park, an arched gateway on Aloha Drive, and gateways on Seaside Avenue and Royal Hawaiian Avenue (hereinafter collectively referred to as the "Park Improvements"); and

WHEREAS, the CITY is supportive of ROTARY's concept for the Improvements for the Park; and

WHEREAS, the CITY understands and acknowledges that ROTARY is a Hawaii nonprofit corporation and is undertaking this project as a community service project for the benefit of the community surrounding the Park; and

WHEREAS, the CITY understands and acknowledges that ROTARY shall use its best efforts to complete the Park Improvements and intends to use volunteer labor and donated services wherever possible; and

WHEREAS, ROTARY understands that the Park Improvements constructed or provided by ROTARY for the Park are subject to prior City Council approval and acceptance pursuant to Section 13-113 of the Revised Charter of the City and County of Honolulu ("RCH"); and

WHEREAS, the CITY and ROTARY further acknowledge that the naming of any City park property, including the Park, and the installation of any plaque in a public park requires prior City Council review and approval by resolution and the name proposed for the Park must meet the criteria set forth in Revised Ordinances of Honolulu 1990 ("ROH") Sections 22-9.3 and 22-9.5; and

WHEREAS, the CITY and ROTARY wish to enter into an agreement identifying each party's respective duties and obligations for the installation and maintenance of the Park Improvements for the Park.

NOW THEREFORE, in consideration of the foregoing, and subject to the terms and conditions set forth below, the CITY and ROTARY do hereby agree as follows:

1. CITY responsibilities:

a. Remove any trees that the City determines should be removed from the Property.

b. Remove the existing chain link fence located on the Property.

c. Shall cause its appropriate departments and agencies to review the plans and specifications for the Park Improvements submitted by ROTARY and approve such plans and specifications or identify any deficiencies in the plans and specifications that prevent their approval. ROTARY may, at its option, cure any deficiencies in the plans and specifications and resubmit them to the CITY for its review and approval within sixty (60) days after the CITY has notified ROTARY of the respective deficiency.

d. Prior to any construction for the development of the Park, the Mayor of the CITY shall submit his or her recommendation to the City Council that the name of the Park be the "Centennial Park" and that the ROTARY plaque become the permanent memorial pursuant to Sections 22-9.5 (c) and (d) of the Revised Ordinances of Honolulu 1990.

e. Issue right-of-entry permits to designated ROTARY members and ROTARY's contractors for the installation and construction of the Park Improvements.

f. Upon completion of the Park Improvements by the ROTARY, the CITY shall recommend that the City Council accept the Park Improvements within a reasonable time.

g. Provide routine maintenance and upkeep of the Park and Park Improvements after the gift of the Park Improvements by ROTARY to the CITY have been accepted by the City Council.

h. Appropriately recognize the contributions of ROTARY in completing the Park Improvements by erecting a sign designating ROTARY as a Hoa Paka All Park Partner in the same or similar format attached as Exhibit A hereto for a period of not less than ten (10) years, unless the CITY notifies ROTARY in writing thirty (30) days prior to each successive ten (10) year period that the approval and permitting will not be extended.

2. ROTARY responsibilities:

a. At its sole cost and expense, shall prepare plans and specifications for the construction of the Park improvements and shall obtain the CITY's prior written approval to any and all plans and specifications, including construction, building, landscape, and electrical plans, for any and all work to be done on the Property, including grubbing, installation of an irrigation system, construction of a perimeter stone wall and wrought iron fencing, installation of gates, walkways, lighting, and signage.

b. Remove the top six-inch layer of material from the surface of the grounds of the Property and replace with six inches of top soil as approved by the CITY.

c. Install an irrigation system, landscaping, grass and vegetation as approved by the CITY.

d. Construct a two-foot high stone wall with three-foot high wrought iron fencing along the perimeter of the Property with locking gates on the Seaside Avenue, Royal Hawaiian Avenue and Aloha Drive.

e. Construct a walkway using materials and a design approved by the CITY.

f. Install a bronze plaque that is approved and accepted by the City Council on the Property.

g. ROTARY shall be responsible for and monitor the actions of its volunteers. ROTARY shall conduct safety briefings with its volunteers to ensure that they are aware of any potential safety problems. ROTARY shall instruct its volunteers in the proper method of performing any maintenance services.

h. ROTARY shall be solely responsible for all costs and expenses incurred in connection with any and all improvements constructed or installed on the Property, including, but not limited to, all design, planning, engineering, permitting, construction, alteration and applicable maintenance costs and expenses.

i. ROTARY, its officers, directors, employees, volunteers, agents, contractors, and subcontractors, shall, at all times during the entirety of this Agreement, comply with all applicable laws, statutes, ordinances, rules and regulations, whether federal, state, or county, which are now or hereafter may be in effect, including but not limited to, the laws applicable to the use of the Property and the securing of any and all necessary governmental and other approvals and permits for the use of the Property.

j. ROTARY shall require its consultants and contractors to procure and maintain during the life of each right-of-entry permit and any extensions thereof, comprehensive general liability insurance covering bodily injury and property damage with limits not less than \$1,000,000 combined single limit per occurrence and including the following extensions: (1) contractual liability to cover liability assumed under the right-of-entry permit; and (2) products and completed operations coverage; and all insurance that may be required under the laws, ordinances or rules or regulations of any governmental authority. All required policies of insurance shall name the CITY, its elected and appointed officials,

employees and agents as additional insured and provide that the policy will not be canceled, terminated, lapsed, or materially changed without 30 days' prior written notice to the CITY.

3. Term. The term of this Agreement shall be from the date of execution until the date the Park Improvements are approved and accepted by the City Council, subject, however, to the right of either party to terminate this Agreement at any time by providing thirty (30) days written notice of cancellation to the other; except that the CITY shall not exercise its termination rights unless ROTARY suspends development and construction of the Park for a period of thirty (30) days.

4. Damage. CITY shall not be responsible for any damage or loss, including, but not limited to personal injury or death, caused by or arising out of or from ROTARY's exercise of the rights granted by this Agreement and not caused by the negligence or willful misconduct of the CITY.

5. Indemnity. ROTARY shall at all times with respect to the Property, use due care for public safety, and prior to the Acceptance Date, ROTARY shall defend, hold harmless, and indemnify the CITY, its officers, agents and employees or any person acting for and on its behalf from and against all claims or demands for damage, including claims for property damage, personal injury or death, caused by or arising out of or from ROTARY's exercise of the rights granted by this Agreement and not caused by the negligence or willful misconduct of the CITY.

6. Termination. Subject to Paragraph 3 Term, this Agreement may be canceled by either party at any time by providing thirty (30) days written notice of the cancellation to the other party by hand-delivery or first-class mail.

7. No Agency or Partnership. Nothing contained herein shall be deemed or construed as creating an agency, partnership, or joint venture relationship between the CITY and ROTARY, or to cause the CITY to be responsible in any way for the debts or obligations of ROTARY.

8. No Assignment. ROTARY's rights and obligations under this Agreement shall not be sold, assigned, conveyed, leased, mortgaged or otherwise transferred or disposed of, directly, indirectly or by operation of law, except with the prior written consent of the CITY. In giving any such consent, the CITY need not release ROTARY from any liabilities or obligations hereunder.

9. Successors. This agreement shall be binding upon and inure to the benefit of the CITY and its successors and assigns, and ROTARY and its successors and permitted assigns.


10. Entire Agreement; Amendments. This Agreement constitutes the entire agreement of the parties, and supersedes all prior or contemporaneous oral or written agreements with respect to the subject matter hereof. Any amendments to this agreement shall be in writing and signed by the parties.

11. Manner of Giving Notice. Notices given pursuant to the provisions of this Agreement or necessary to carry out its provisions shall be in writing and delivered personally to the person to whom the notice is to be given, or mailed postage prepaid, addressed to such person. The CITY's address for this purpose shall be: Director, Department of Parks and

Recreation, Kapolei Hale, 1000 Ulukouia Street, Suite 309, Kapolei, Hawaii 96707, or such other address as may be designated by the CITY in writing. Notices to ROTARY shall be addressed to President, Rotary Club of Honolulu, 705 Queen Street, Honolulu, Hawaii 96813, or such other address as may be designated by ROTARY in writing.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

CITY AND COUNTY OF HONOLULU



Michele K. Nekota, Director
Department of Park and Recreation



Nelson H. Koyanagi, Jr., Director
Department of Budget and Fiscal Services

APPROVED AS TO FORM
AND LEGALITY:



Deputy Corporation Counsel
DAWN D. M. SPURLIN

15-06938

ROTARY CLUB OF HONOLULU
A Hawaii non-profit organization

By 

Name: Garrett Grace
Its: Past President

By 

Name: Rick Towill
Its: President

76 JUL 22 P2:28
DEPT. OF PARKS
& RECREATION
CITY OF HONOLULU



Hoa Pāka

Ali'i Park Partner



**Sponsor's
Name**

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 19-89

Introduced: 04/10/19 By: HEIDI TSUNEYOSHI

Committee: PARKS, COMMUNITY
SERVICES AND
INTERGOVERNMENTAL
AFFAIRS

Title: RESOLUTION GRANTING APPROVAL OF A PRIVATE AGREEMENT BETWEEN THE CITY AND COUNTY OF HONOLULU
DEPARTMENT OF PARKS AND RECREATION, DEPARTMENT OF BUDGET AND FISCAL SERVICES, AND THE ROTARY
CLUB OF HONOLULU.

Voting Legend: * = Aye w/Reservations

04/17/19	COUNCIL	RESOLUTION REFERRED TO COMMITTEE ON PARKS, COMMUNITY SERVICES AND INTERGOVERNMENTAL AFFAIRS. 9 AYES: ANDERSON, ELEFANTE, FORMBY, FUKUNAGA, KOBAYASHI, MANAHAN, MENOR, PINE, TSUNEYOSHI.
04/23/19	PARKS, COMMUNITY SERVICES AND INTERGOVERNMENTAL AFFAIRS	CR-120 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION. 3 AYES: KOBAYASHI (temporary voting member), MENOR, TSUNEYOSHI. 3 EXCUSED: ANDERSON, ELEFANTE, MANAHAN.
NOTE: COUNCILMEMBER WATERS TOOK OFFICE ON MONDAY, MAY 6, 2019.		
05/08/19	COUNCIL	CR-120 AND RESOLUTION 19-89 WERE ADOPTED. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, MANAHAN, MENOR, PINE, TSUNEYOSHI, WATERS. 1 ABSENT: KOBAYASHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



GLEN I. TAKAHASHI, CITY CLERK



IKAIKA ANDERSON, CHAIR AND PRESIDING OFFICER